


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-0265-C - ORDER NO. 2000-863
OCTOBER 24, 2000

IN RE: Application of Birch Telecom of the South, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Interexchange and Local Exchange Telecommunications Services within the State of South Carolina.) ORDER APPROVING) FLEXIBLE) REGULATION OF) LOCAL SERVICES AND) ALTERNATIVE) REGULATION OF) INTEREXCHANGE) SERVICES
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This matter comes before the Public Service Commission of South Carolina (“Commission”) on the request of Birch Telecom of the South, Inc. (“Birch” or the “Company”) for approval of flexible regulation for its local exchange service offerings and for alternative regulation of its interexchange business service offerings. Birch requests that its local exchange service offerings be regulated in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C. Additionally, Birch requests that its interexchange business service offerings, consumer card services, and operator services be regulated in accordance with the procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

The Company’s Notice of Filing was published through the subscription service. No protests or Petitions to Intervene were received regarding Birch’s request.

Accordingly, the matter comes before the Commission for disposition. Flexible regulation of local exchange services was first recognized by this Commission by Order No. 98-165 in Docket No. 97-467-C. Birch requests that the Commission adopt for its competitive intrastate local exchange services a flexible regulatory treatment as first approved by Order No. 98-165 in Docket 97-467-C. This flexible regulatory treatment for competitive local exchange services consists of a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, local exchange service tariffs are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing will be suspended pending further Order of the Commission. Additionally, any company under the flexible regulatory scheme as approved by Order No. 98-165 in Docket No. 87-467-C will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

Alternative (or relaxed) regulation was first approved for AT&T of the Southern States by Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The alternative regulatory scheme approved in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C, and as approved for other interexchange carriers, provides that tariffs shall be presumed valid upon filing, subject to the Commission's right within seven (7) days to institute an investigation of the tariff filing, in which case such filing shall be suspended pending further Order of the Commission. Birch requests that this alternative regulation be approved for its interexchange business services, consumer card services, and operator services in South Carolina.

Since the Commission has received no opposition to Birch's request, the Commission approves Birch's request for flexible regulation of its local exchange service offerings and for alternative regulation of Birch's business service offerings, consumer card service offerings, and operator service offerings.

IT IS THEREFORE ORDERED THAT:

1. Birch's request for flexible regulation of its local exchange service offerings and for alternative regulation of its business service offerings, consumer card service offerings, and operator service offerings is granted.
2. Under flexible regulation for local exchange service offerings, Birch shall file with the Commission tariffs which shall include a maximum rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels. Further, local exchange service tariffs are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing will be suspended pending further Order of the Commission. Additionally, Birch, under the flexible regulatory scheme as approved by Order No. 98-165 in Docket No. 87-467-C, will be subject to the same monitoring process as similarly situated competitive local exchange carriers.
3. Under alternative regulation, Birch shall not be required to state maximum rates (caps) for its business service offerings, consumer card service offerings, and operator service offerings. Such rates shall be presumed valid upon filing, subject to the Commission's right within seven (7) days to institute an investigation of the tariff filing, in which case such filing shall be suspended pending further Order of the Commission.

Further, Birch shall be subject to the same monitoring process as similarly regulated companies.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)